

JEFFREY G. PAUPORE, SBN 007769
STEVEN A. YOUNG, SBN016838
Deputy County Attorney
YCAO@co.yavapai.az.us

Attorneys for STATE OF ARIZONA

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA ✓

2011 AUG 11 PM 4:33

SANDRA K. KADANAH, CLERK

BY: 

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

CAUSE NO. P1300CR201001325

RESPONSE TO REQUEST FOR
DEPOSITION OF DET. BROWN

Assigned to Hon. Warren R. Darrow
Division PTB

ORAL ARGUMENT REQUESTED

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby responds to Defendant's Request for Deposition of Det. Doug Brown. This motion is supported by the attached Memorandum of Points and Authorities which is attached hereto and incorporated herein.

MEMORANDUM OF POINTS AND AUTHORITIES

The request for a deposition in a criminal case can only be granted under limited circumstances. Rule 15.3(a), Arizona Rules of Criminal Procedure, provides in pertinent part that the court may in its discretion order the examination of any person upon oral deposition under the following circumstances:

- (1) A party shows that the person's testimony is material to the case and that there is a substantial likelihood that the person will not be available at the time of trial, or
- (2) A party shows that the person's testimony is material to the case or necessary adequately to prepare a defense or investigate the offense, that the person was not a witness at the preliminary hearing or at the

Office of the Yavapai County Attorney

255 E. Gurley Street, Suite 300

Prescott, AZ 86301

Phone: (928) 771-3344 Facsimile: (928) 771-3110

- 1 probable cause phase of the juvenile transfer hearing, and that the
2 person will not cooperate in granting a personal interview, or
3 (3) A witness is incarcerated for failure to give satisfactory security that
4 the witness will appear to testify at a trial or hearing.

5 None of these circumstances are present regarding the requested deposition of Investigator
6 Sechez. As Defendant concedes, Det. Brown has already submitted to a defense interview. The
7 sole basis for the requested deposition is to allow defense counsel to question the witness as to
8 how that witness believes that the majority component of the DNA under the victim's fingernail
9 came from the person whose autopsy was performed just prior to the victim's autopsy. Such a
10 question clearly calls for speculation and is not an appropriate area of inquiry. If the Court
11 believes otherwise, the Court may order the State to set another interview of the witness. A
12 deposition, however, is clearly not warranted.

13 Since Det. Brown has already submitted to a personal interview, there is no basis to order
14 the requested deposition.

15 **RESPECTFULLY SUBMITTED** this 11 day of August, 2011.

16 **Sheila Sullivan Polk**
17 **YAVAPAI COUNTY ATTORNEY**

18
19 By: Steven A. Young
20 **Steven A. Young**
21 Deputy County Attorney

22
23 **COPY** of the foregoing **Emailed** this
24 11/15 day of August, 2011, to:

25 Honorable Warren R. Darrow
26 Division 6
Yavapai County Superior Court
Via email to Diane Troxell: DTroxell@courts.az.gov

Office of the Yavapai County Attorney

255 E. Gurley Street, Suite 300

Prescott, AZ 86301

Phone: (928) 771-3344 Facsimile: (928) 771-3110

1 Craig Williams
2 Attorney for Defendant
3 Yavapai Law Office
4 3681 No. Robert Rd.
5 Prescott Valley, AZ 86314
6 Via email to yavapaiolaw@hotmail.com

7 Greg Parzych
8 Co-counsel for Defendant
9 2340 W. Ray Rd., Suite #1
10 Chandler, AZ 85224
11 via email to: gparzlaw@aol.com

12
13 By: 
14
15
16
17
18
19
20
21
22
23
24
25
26